

NOT FOR PUBLICATION

MAY 10 2006

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

JOSE DANIEL MUNOZ,

Petitioner,

v.

ALBERTO R. GONZALES,^{**} Attorney
General,

Respondent.

No. 04-72037

Agency No. A72-536-383

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted May 8, 2006^{***}
Pasadena, California

Before: HAWKINS, GRABER, and PAEZ, Circuit Judges.

Jose Daniel Munoz (“Munoz”), a native and citizen of Guatemala, petitions
for review of the Board of Immigration Appeals’ order summarily affirming an

^{*} This disposition is not appropriate for publication and may not be cited
to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

^{**} Alberto R. Gonzales is substituted for his predecessor, John Ashcroft,
as Attorney General of the United States, pursuant to Fed. R. App. P. 43(c)(2).

^{***} The panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

immigration judge's ("IJ") denial of his motion to reopen proceedings in which he was ordered deported in absentia. We have jurisdiction pursuant to former 8 U.S.C. § 1105a(a), *Socop-Gonzalez v. INS*, 272 F.3d 1176, 1183 (9th Cir. 2001) (en banc), we review for abuse of discretion, *id.* at 1187, and we deny the petition for review.

The IJ properly denied Munoz's motion to reopen. The record reflects that Munoz's Order to Show Cause ("OSC") was sent as certified mail via the United States Postal Service ("USPS") with a request for a signed return receipt. The signed return receipt shows that the USPS article was delivered to Munoz's last known address. Notably, Munoz does not argue that the individual who signed the return receipt did not in fact receive the article or that the individual was not competent to sign the receipt. The only evidence that Munoz presented that he did not receive the OSC were his own written statements in support of the motion to reopen.

In light of the strong presumption that the USPS article was delivered to Munoz's last known address, and in light of the limited evidence presented by Munoz, we conclude that the IJ did not abuse his discretion by denying Munoz's motion to reopen. *See Arrieta v. INS*, 117 F.3d 429, 431 (9th Cir. 1997) (per curiam) (holding that notice sent to an alien's last known address creates a strong presumption of effective delivery); *Salta v. INS*, 314 F.3d 1076, 1079 (9th Cir. 2002) (noting that it

requires “fairly strong evidence” to rebut the presumption that notice sent via certified mail was delivered).

PETITION FOR REVIEW DENIED.